

1 most recently, which caused me to issue the Order to Show
2 Cause, on August 14th, 2015, you failed to call to receive your
3 juror status and failed to appear on August 17th, 2015. The
4 Federal statute by which I have issued this Order to Show Cause
5 is 28 U.S.C. Section 1866(g), which states as follows: Any
6 person summoned for jury service who fails to appear as
7 directed may be ordered by the district court -- that is me --
8 to appear forthwith and show cause for failure to comply with
9 the summons. Any person that fails to show good cause for
10 noncompliance with the summons may be fined more than \$1000,
11 imprisoned not more than three days, ordered to perform
12 community service or any combination thereof.

13 So, this is a hearing, Mr. Miller, regarding your
14 failure to comply with the juror summons that have been issued
15 to you in this case. You have the opportunity to testify or
16 you have the opportunity to call any witnesses. You also have
17 the right to be represented by counsel. If you cannot afford
18 an attorney, I will appoint one to represent you. So, let me
19 first deal with the issue of legal representation. I don't see
20 anyone here with you, so I take it you do not have an attorney?

21 MR. MILLER: No, I couldn't afford one. I didn't
22 know I was supposed to bring one.

23 THE COURT: The Order to Show Cause mentions an
24 attorney. You don't have to, you can appear pro se is what
25 they call it. You say you can't afford one, but you're

1 employed, correct?

2 MR. MILLER: Yes.

3 THE COURT: And where do you work?

4 MR. MILLER: Abercrombie and Fitch right now.

5 THE COURT: And what is the rate of your pay
6 there?

7 MR. MILLER: Right now it's at \$13 an hour.

8 THE COURT: And so how much do you make on a
9 monthly basis?

10 MR. MILLER: Usually like right around 15 - to
11 1600 after taxes.

12 THE COURT: All right. Based on that, I do not
13 find that you are financially eligible for the appointment of
14 counsel given the relatively limited nature of this matter. So
15 is it your desire to represent yourself in connection with this
16 matter?

17 MR. MILLER: I guess, I don't know. I've never
18 done this. I don't know what the smartest action to take.

19 THE COURT: I can't give you legal advice. My
20 question is pretty simple: Are you representing yourself here
21 today?

22 MR. MILLER: Yes, I guess so.

23 THE COURT: And, Mr. Miller, can you tell me what
24 the reasons were for failing to respond to the juror summons
25 that were issued in this case? You were aware of these,

1 correct?

2 MR. MILLER: Well, the only one.

3 THE COURT: We'll first what we are going to do is
4 put Mr. Miller under oath. Could you please swear in Mr.
5 Miller, Ms. Duque?

6 (Whereupon, A. Miller was administered the oath by the
7 Courtroom Deputy.)

8 MR. MILLER: I swear.

9 THE COURT: Mr. Miller, you received the initial
10 notice and you completed the questionnaire?

11 MR. MILLER: Yes, the one with the questionnaire,
12 I submitted that one. And my parents told me -- like, I
13 probably should have called, like, honestly, because you guys
14 have better knowledge and what not, obviously. I showed my
15 parents, because I live on my own, I showed them a picture of
16 what it looked like, and they said it's not a summons, just a
17 questionnaire to see if you're fit for doing jury service or
18 jury service and what not, and then basically I got -- I didn't
19 -- I showed a picture to my mom.

20 THE COURT: What do you mean a picture? You were
21 taking pictures of what you were receiving in the mail?

22 MR. MILLER: I showed her, like, what I got in the
23 mail, basically. I mean, I don't know how else to explain. I
24 took a picture on my phone and left my house, and when I
25 visited with them, I just showed them what it was, basically.

1 I didn't really bring it home to them. I guess, I don't know.
2 I showed them the next one that I got, which was like a really
3 limited form, and I can't remember what it says, to be honest
4 with you. And I don't know, I just -- I really didn't know,
5 like, the process of it. And when someone called basically
6 requesting me to, you know, because they said that you were
7 upset that I wasn't showing up and what not, I guess I just
8 really didn't know the process of it. I was just, I guess,
9 ignorant to the fact of it. I don't know what to call it.

10 THE COURT: You received a summons, correct?
11 Something that looked like this?

12 MR. MILLER: I never received that. I received --
13 I can bring -- I don't know, I should have brought it. It was
14 like a sheet of paper and it had a very limited thing and it
15 was, like I said, that, I think, to call you guys, but I never
16 received that picture of that.

17 THE COURT: Well, you received a notice in the
18 mail which indicated that you needed to call in to find out
19 whether or not you needed to report for jury service, correct?

20 MR. MILLER: Yeah, I didn't know if that was like
21 if I was selected, because I thought I would get information.

22 THE COURT: But you never called?

23 MR. MILLER: No, I didn't.

24 THE COURT: I mean, you had a phone number and you
25 never called?

1 MR. MILLER: Correct.

2 THE COURT: And you -- there were more than one
3 instance where you were supposed to call and you never called,
4 correct?

5 MR. MILLER: Yes.

6 THE COURT: And then up until me getting the
7 Deputy Marshals to go out and serve you with this Order to Show
8 Cause, you didn't show up in court, correct?

9 MR. MILLER: Correct.

10 THE COURT: Let me tell you something, Mr. Miller.
11 We had a criminal trial. Somebody's life was on the line. And
12 we almost did not have enough jurors to pick a jury for that
13 trial. You are an American citizen, correct?

14 MR. MILLER: Right.

15 THE COURT: You live in a democracy?

16 MR. MILLER: Yes.

17 THE COURT: And if you were ever in a situation
18 like this, I can guarantee you that your fundamental right to a
19 jury is something you would wholly embrace and you wouldn't
20 want to rely on folks like yourself who just disregard court
21 notices that somehow believe that they are above what everybody
22 else had to do. You realize we had people coming in from over
23 two and a half hours away to respond to the summons, and you
24 live in Webster and you couldn't pick up the phone and call.
25 That is what you're telling me, right?

1 MR. MILLER: Correct.

2 THE COURT: Is this the way you engage in your
3 everyday operations? What is your background? What is your
4 educational background?

5 MR. MILLER: I mean, I went to school and
6 everything. I don't know.

7 THE COURT: Did you graduate from high school?

8 MR. MILLER: Yeah.

11 MR. MILLER: Yeah, what I'm trying to do.

19 MR. MILLER: I guess, I don't know.

20 THE COURT: You realize you made a mistake?

21 MR. MILLER: I wasn't subconsciously doing it.

22 THE COURT: You realize that you made a mistake?

23 MR. MILLER: For sure. I'm not saying -- I didn't
24 think I was above anybody.

25 THE COURT: You ignored it. You felt like if you

1 ignored it, it would go away?

2 MR. MILLER: I guess.

3 THE COURT: Well, here is what I'm going to do. I
4 want you to understand -- well, first of all, I find that you
5 have is not shown good cause for your failure to comply with
6 the notices that you received from this court.

7 MR. MILLER: I understand.

8 THE COURT: And I think you would agree with me.

9 MR. MILLER: I'm not going to try to prove that or
10 make an excuse.

11 THE COURT: So you agree with me you did not have
12 good cause to ignore these summons, correct?

13 MR. MILLER: Absolutely.

14 THE COURT: The penalties that I can impose, I can
15 send you to prison for up to three days, impose a fine of up to
16 \$1000, I can impose community service or I can impose a
17 combination of both. What I'm going to do is this. I'm going
18 to impose community service. And I'm going to require that you
19 work for 20 hours at FoodLink between now and December 1.

20 MR. MILLER: Okay.

21 THE COURT: On or before December 1, you're going
22 to need to file with this clerk's office -- you can -- you'll
23 go to the second floor of this building.

24 MR. MILLER: I'm sorry to interrupt.

25 THE COURT: Let me tell you what your sentence is

1 first and then you can ask any questions that you have. On or
2 before December 1, you going to need to go to the clerk's
3 office and file a certificate with the clerk's office
4 indicating you, in fact, have completed the 20 hours of
5 community service that I'm going to require you to work at
6 FoodLink. If you do not do that, if you do not file this
7 notice, this certificate, on or before December 1, I am going
8 to issue a warrant for your arrest and I'm going to send you to
9 jail for 72 hours.

10 MR. MILLER: All right.

11 THE COURT: Do you have any questions about that?

12 MR. MILLER: Do I just report here like every
13 time?

14 THE COURT: No. I'm going to give you the
15 information right now, okay? Do you have a pen. Let's give
16 Mr. Miller a pen and piece of paper. You need to contact an
17 individual by the name of Perry, P-e-r-r-y, Jones, J-o-n-e-s.
18 His phone number is (585) 328-3380, extension 143. As I said,
19 you need to perform 20 hours of community service at Foodlink's
20 location. I'm going to give you the location where you're
21 going to need to work. It's going to be 1999 Mount Read
22 Boulevard. Once you have performed that 20 hours, Mr. Jones at
23 FoodLink will issue you a letter stating that you completed the
24 20 hours of service, and he'll also indicate how you performed.
25 That letter, what you receive from Mr. Jones, is what you are

1 going to need to then bring to the clerk's office here on the
2 second floor. And you need -- don't wait to do this, because
3 it might seem as though December 1 is a ways off at this point,
4 but I'm not -- this is not an idle threat, that if you don't
5 file this by December 1, I will issue a warrant for your arrest
6 and you're going to serve 72 hours in jail, so do this as soon
7 as possible. Once you get that letter from Mr. Jones, you then
8 need to bring it to the second floor clerk's office here. And
9 I'm going to give you the case number again for your case, it's
10 15MC6004, and ask that it be filed on the Court docket. Once
11 it's filed on the Court docket on or before December 1, I will
12 issue an order closing this case. But if it's not filed on or
13 before December 1, then I will issue a warrant for your arrest.
14 Do you have any questions?

15 MR. MILLER: No, no, ma'am.

16 THE COURT: Do you understand how important it is
17 now if you receive a future summons, whether state court or
18 federal court, do you understand how important it is that you
19 comply with that summons?

20 MR. MILLER: Yes, ma'am.

21 THE COURT: Okay. All right. Very good. This
22 case is adjourned. Thank you, Mr. Miller.

23 MR. MILLER: Thank you.

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CERTIFICATE OF REPORTER

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6 I certify that the foregoing is a correct transcript of the
7 record of proceedings in the above-entitled matter.

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9 S/ Karen J. Bush, RPR

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11 Official Court Reporter

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